

## COMMENTS

The enclosed is responsive to the Examiner's Office Action mailed on September 5, 2002. At the time the Examiner mailed the Office Action claims 1 through 12 were pending. By way of the present response no claims have been amended and new claims 13 through 28 have been added. As such claims 1 through 28 are currently pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1 through 28.

The Examiner has rejected claims 1 through 12 under 35 USC 102(e) in view of U.S. Patent No. 6,292,478 (hereinafter, "Farris"). "To anticipate a claim, the reference must teach every element of the claim". MPEP 2131. The applicant respectfully submits that Farris fails to disclose each element of the Applicant's claims. Specifically, Farris fails to disclose the later elements of the Applicants independent claims 1, 5, and 9:

assigning a label based on the corresponding IP address; and,  
routing the call connection request message based on the label

Carefull review of Farris reveals that Farris is limited to converting a telephony prefix into an IP address and then routing a call over an IP network based upon the IP address. Farris fails to discuss, at any level, the use of label switching (such as MPLS based label switching) as a mechanism for establishing the call. Therefore, it is improper to use Farris as a basis for rejecting the applicant's claims under 35 USC 102(e). Moreover, the Examiner's reasoning that labels are found in each of Figures 13A, 13B and 14 is misguided. It is clear from a plain reading of Farris that the term "ITS address" in Figure 13A refers to an IP

address and not to a label for label switching (See, for example, Col. 13 lines 40 – 43 of Farris).

With respect to Figure 14, it is clear that the terms “ITS<sub>B</sub>” and “ITS<sub>C</sub>” are used to respectively represent the *IP addresses* of the Internet Telephony Servers (ITSs) 472b and 472c of Figure 9 of Farris. Here, these table entries simply represent the ultimate destination of a packet received at a router having the routing table observed in Figure 14 of Farris. Consistent with basic routing table implementations, the IP addresses listed in the “Source Node” and “Destination Node” columns of Figure 14 simply represent the IP addresses of *neighboring routers* relative to the router having the routing table of Figure 14 (See, Col. 13 lines 28 – 36 of Farris). Figure 13 simply represents end-to-end network paths in terms of the IP addresses of the ITS units.

The Examiner has rejected claims 1 through 12 under 35 USC 103 in view of U.S. Patent No. 6,205,135 (hereinafter, “Chinni”). “To establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.” MPEP 2143. Firstly, the Examiner incorrectly states the Applicant’s claim elements as reciting “determining a prefix number” (See, Office Action mailed 9/5/02 pg. 4). As such, the Examiner’s reasoning inherently fails to articulate a line of reasoning that shows every element of the Applicant’s claims is taught or suggested by Chinni. Moreover, the Examiner correctly admits that Chinni fails to teach or suggest “assigning a label based on the corresponding IP address” (See, Office Action mailed 9/5/02 pg. 4). As such, it is improper for the Examiner to reject the Applicants claims under 35 USC 103. Here, the Examiner is required to at least

find some teaching or suggestion within Chinni of the above cited subject matter.  
See, MPEP 2143.

As Chinni (like Farris) fails to teach or suggest, at any level, the use of label switching (such as MPLS based label switching) as a mechanism for establishing a call, it is clear that Chinni is an insufficient reference for rejecting the Applicant's claims. Lastly, the Examiner's modification of Chinni to provide the missing subject matter is incorrect as a matter of law. The Examiner has admitted that Chinni fails to teach the assigning of a label based on the IP address and the determining of a prefix number. MPEP 2143.01 explicitly states that "the prior art must suggest the desirability of the claimed invention". Given that the Examiner has admitted that Chinni fails to suggest the missing subject matter, it is legally impossible for Chinni by itself to cover applicant's claims. Moreover, if the Examiner is "taking official notice" in order to "find" the missing subject matter, under MPEP 2144.03, the Applicant hereby traverses the Examiner's line of reasoning and demands that the Examiner bring forth the evidence that the Examiner claims to be "well known".


Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Robert O'Rourke at (408) 720-8300.

If there are any additional charges, please charge them to our Deposit  
Account Number 02-2666.

Respectfully submitted,

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Dated: 1/6, 2002

  
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**VERSION TO SHOW CHANGES MADE**

Claims 13 – 28 have been added.